

REMARKS

I. Status of the Claims

Claims 2-44, 46-62, and 64-79 are rejected. Claims 1, 45, and 63 were previously canceled. Claims 23-25, 44, and 57-59 are hereby canceled.

II. Rejection Under 35 U.S.C. § 101

In the Office action, the Examiner rejected claim 44 “under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.” Applicants respectfully submit the cancellation of claim 44 renders the rejection moot.

III. Rejections Under 35 U.S.C. § 103(a)

First, the Examiner rejected claims 2-3, 22, 26-28, 35-36, 38-44, 46-47, 55-56, 60-62, 70-71, and 73-79 “under 35 U.S.C. 103(a) as being unpatentable over Rajkumar (US PG Pub No. US 2003/0061260 A1) [(“Rakjumar”)] in view of Buyya et al. (“A Case for Economy Grid Architecture for Service Oriented Grid Computing”, Parallel and Distributed Processing Symposium, Proceedings 15th International 23-27, April 2001, pgs 776-790)” (“Buyya”). Second, the Examiner rejected claims 4-21, 29-34, 37, 48-54, 64-69, and 72 “under 35 U.S.C. 103(a) as being unpatentable over Rajkumar ... and Buyya ... in view of Schweitzer et al. (US Pat No. 6,418,467)” (“Schweitzer”). Third, the Examiner rejected claims 23-25 and 57-59 “under 35 U.S.C. 103(a) as being unpatentable over Rajkumar ... and Buyya ... in view of Ahamed et al. (US Pat No. 5,978,831)” (“Ahamed”).

Applicants respectfully assert the Examiner’s rejections of (1) claims 2-3, 22, 26-28, 35-36, 38-44, 46-47, 55-56, 60-62, 70-71, and 73-79 over Rajkumar and Buyya; and (2) claims 4-21, 29-34, 37, 48-54, 64-69, and 72 over Rajkumar, Buyya, and Schweitzer are moot in

light of this Office action Amendment whereby the limitations of dependent claims 23-25 are incorporated into independent claim 39 and the limitations of dependent claims 57-59 are incorporated into independent claim 74, as claims 39 and 74 are the only pending claims in independent form and all other claims depend therefrom.

In the Examiner's rejection of (3) claims 23-35 and 57-59 over Rajkumar, Buyya, and Ahamed, the Examiner stated: "Regarding claims 24-25, Ahamed teaches that each of said one or more reservations and requests comprises an expression of said first and second types of processing device in a normalized unit of processing capability (col 12 lines 25-43)." However, column 12, lines 25-43 of Ahamed states:

In Sections 4, 5, and 6 of this discussion, the freedom to generate computing structures with serial, or singly-parallel, or multiply-parallel, or serial singly-paralleled, or serial multiply-paralleled, arrangements was presented. The relation between clock rates of the various processors and the shift-in and shift-out times of the various buffers for holding raw data and the processed data are synchronized to ascertain maximal processor utilization. Thus, no processor is idle during the entire processing of long data sequences. The throughput of the structure is higher than the throughput of the fastest processor. When exact synchronization is not possible, the idle time of the processors will correspond to the duration dictated by the lack of correspondence between gating speed and processor maximum speed. We do not consider this as a major problem, since the fastest clock can be slowed by incremental amounts until synchronism is achieved. Even under these conditions, the throughput of the structure can be made higher than the throughput of the fastest processor.

Col. 12, lines 25-43, U.S. Pat. No. 5,978,831 to Ahamed. Applicants respectfully assert that the above quoted language at least does not disclose or suggest the limitations of claims 24-25 and 58-59. Accordingly, currently amended independent claims 39 and 74 and all claims depending therefrom are patentable over Ahamed, Rajkumar, Buyya, or Schweitzer, alone or in

combination. Applicants thus request the rejections of these claims under 35 U.S.C. § 103 be withdrawn, and that the pending claims be allowed.

IV. Conclusion and Request for Reconsideration

Applicants request reconsideration of the present application in view of the aforementioned amendment and remarks. Although other features of the claims in the present application are also significant, Applicants respectfully submit that the pending claims are allowable for at least the aforementioned reasons. Accordingly, Applicants respectfully request that the rejections under §§ 101 and 103(a) be withdrawn, and that the pending claims be allowed.

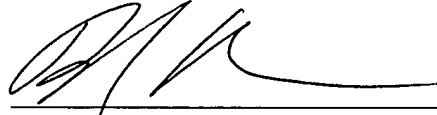
In the event that a telephone conference would advance examination of this application, the Examiner is invited to contact the undersigned at the number provided.

V. Authorization

The shortened statutory period for response expired on May 4, 2008; therefore, the present response is submitted with a Petition for Three-Month Extension of Time and payment of necessary extension fees. In the event the Commissioner determines that an additional fee is due for this paper, the undersigned hereby petitions for any required extension of time and authorizes the Commissioner to charge any fee required to Milbank's deposit account no. 13-3250, order no. 36287-03400. A DUPLICATE COPY OF THIS PAGE IS ENCLOSED HERewith.

Appl. No. 10/065,546
Amdt. Dated August 4, 2008
Reply to Office action of February 4, 2008
Express Mail Label No. EV 580 541 814 US

Respectfully submitted,
Milbank, Tweed, Hadley & McCloy LLP

A handwritten signature in dark ink, appearing to be 'Blake Reese', written over a horizontal line.

Blake Reese
Reg. No. 57,688

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Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
(212) 530-5000 / (212) 530-5219 (facsimile)
NY2:#4795352